

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

SUSAN HALE,

Plaintiff,

Case No.: 3:13-cv-195

vs.

COMMISSIONER
OF SOCIAL SECURITY,

Magistrate Judge Michael J. Newman
(Consent Case)

Defendant.

ORDER¹ AND ENTRY: (1) DENYING AS MOOT PLAINTIFF'S MOTION FOR FEES PURSUANT TO THE EQUAL ACCESS TO JUSTICE ACT ("EAJA") (DOC. 18); (2) APPROVING THE PARTIES' JOINT STIPULATION FOR EAJA FEES (DOC. 19); AND (3) AWARDING EAJA FEES IN THE AMOUNT OF \$5,650.00

This Social Security disability benefits appeal is before the Court on Plaintiff's motion for attorney's fees under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d) (doc. 18), and the parties' subsequently filed joint stipulation agreeing that Plaintiff be awarded EAJA fees in the amount of \$5,650.00. Doc. 19. The Court has carefully reviewed these documents and they are now ripe for the Court's consideration.

EAJA provides for an award of attorney's fees to a party who prevails in a civil action against the United States "when the position taken by the Government is not substantially justified and no special circumstances exist warranting a denial of fees." *Bryant v. Comm'r of Soc. Sec.*, 578 F.3d 443, 445 (6th Cir. 2009) (citing 28 U.S.C. § 2412(d)(1)(A)). A party who prevails and obtains a Sentence Four remand is a prevailing party for EAJA purposes. *See*

¹ The parties unanimously consented to the jurisdiction of the Magistrate Judge. Doc. 12.

Shalala v. Schaefer, 509 U.S. 292, 301-02 (1993). EAJA fees are payable to the litigant. *Astrue v. Ratliff*, 586 U.S. 586, 589 (2010).

The Court, upon consideration of Plaintiff's Statement of Errors (doc. 11), the Commissioner's memorandum in opposition to Plaintiff's Statement of Errors (doc. 14), Plaintiff's reply memorandum (doc. 15), the administrative record (doc. 8), and the record as a whole, found the ALJ's non-disability finding unsupported by substantial evidence and remanded this case to the Commissioner under the Fourth Sentence of 42 U.S.C. § 405(g) for further proceedings. Doc. 16. Accordingly, Plaintiff is the prevailing party in this case for EAJA purposes and, therefore, is entitled to an award of attorney's fees under EAJA. *See Shalala*, 509 U.S. at 301-02. Having reviewed the time sheet entries submitted by Plaintiff's counsel, *see* doc. 18-2 at PageID 1116-17, and considering the nature of the work counsel performed in this case, the Court finds the time expended and the proposed hourly rate reasonable. As a result, the Court awards Plaintiff EAJA fees in the stipulated amount of \$5,650.00.

Accordingly, based on the foregoing, the Court: (1) **APPROVES** the parties' joint, unopposed stipulation for an EAJA fee award (doc. 19); (2) **GRANTS** Plaintiff EAJA fees in the amount of \$5,650.00; and (3) **DENIES AS MOOT** Plaintiff's separate motion for attorney's fees under the EAJA (doc. 18). As no further matters remain pending for review, this case remains **TERMINATED** upon the Court's docket.

IT IS SO ORDERED.

Date: January 14, 2015

s/ Michael J. Newman
Michael J. Newman
United States Magistrate Judge